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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,042	05/08/2001	Randy D. Petrea	5236	2161

7590                    08/08/2003

Milliken & Company  
P.O. Box 1927  
Spartanburg, SC 29304

EXAMINER

GOLLAMUDI, SHARMILA S

ART UNIT                  PAPER NUMBER

1616

DATE MAILED: 08/08/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Applicant No.</b>	<b>Applicant(s)</b>
	09/851,042	PETREA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Sharmila S. Gollamudi	1616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 24 July 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_.

3.  Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_.

Claim(s) objected to: \_\_\_\_.

Claim(s) rejected: \_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_.

8.  The proposed drawing correction filed on \_\_\_\_\_ is a) approved or b) disapproved by the Examiner.
9.  Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). \_\_\_\_.
10.  Other: \_\_\_\_

Continuation of 3. Applicant's reply has overcome the following rejection(s): Rejection of claims 34 and 37-46 under 35 U.S.C. 103(a) as being unpatentable over Katsura et al (5,941,369) in view of Petrea et al (6,479,144)..

***Response to Arguments***

Although Petrea et al is disqualified under 35 U.S.C § 103c, the remaining rejections remain the same since Petrea et al was used as an optional reference to demonstrate inherency. The elimination of this reference does not change the substance of the rejection since the inherent properties of anti-tack that are imparted by the antimicrobial particles remains with or without the reference. Applicant is reminded that the claims are drawn to a product and a newly discovered function or a feature of a component does not impart patentability on an old product since the product would inherently have said feature.

**Claims 34 and 37-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krall et al (5976562) in view of JP 09002537.**

Krall et al disclose a polyurethane film of .25mm thickness with silver. The antimicrobial silver is embedded in and coated onto the polyurethane. (Note example and col. 2, lines 5-15). Krall et al does not include an organic bactericide or additives. Krall teaches the metal compounds are embedded in the plastic in the form of discrete particles. See column 2, lines 5-10. The instant cohesive properties of the film are inherent.

Krall et al do not teach silver based zirconium phosphate.

JP 09002537 teaches a container exhibiting antimicrobial property incorporating silver based zirconium phosphate. JP teaches silver based zirconium phosphate provides less discoloration and deterioration. The reference teaches resin such as polyurethane. (Note abstract)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Krall et al and JP 09002537 since both teach silver-based polyurethane articles to provide an antibacterial effect. One would be motivated to use silver based zirconium phosphate since it provides less discoloration and deterioration as taught by JP 09002537.

**Claims 34 and 37-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11-028797 in view of JP 09002537.**

JP teaches polyurethane film extruded with an antimicrobial agent, such as silver and antifungal agent (see page 3). The film is then coated onto a thermoplastic resin. The film has a thickness between 10-1000 microns and instant properties.

JP does not teach instant silver agent.

JP 09002537 teaches a container exhibiting antimicrobial property incorporating silver based zirconium phosphate. JP teaches silver based zirconium phosphate provides less discoloration and deterioration. The reference teaches resin such as polyurethane. (Note abstract)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine JP 11-028797 and JP 09002537 since both teach silver-based polyurethane articles to provide an antibacterial effect. One would be motivated to use silver based zirconium phosphate since it provides less discoloration and deterioration as taught by JP 09002537.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
SSG  
August 7, 2003

  
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
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